

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

**STATE OF TENNESSEE v. ESTES KEFAUVER BOWERS**

**Appeal from the Circuit Court for Blount County**  
**Nos. C-16524 and C-16974    David R. Duggan, Judge**

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**No. E2008-02322-CCA-R3-CD - Filed April 29, 2009**

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The defendant, Estes Kefauver Bowers, appeals from the trial court's order revoking his probation. The state has filed a motion requesting that this court affirm the trial court's order pursuant to Rule 20 of the Rules of the Court of Criminal Appeals. Upon full consideration, we conclude that the trial court properly revoked the defendant's probation. Accordingly, the state's motion is granted and the judgment of the trial court is affirmed.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed**  
**Pursuant to Rule 20, Rules of the Court of Criminal Appeals.**

D. KELLY THOMAS, JR., J., delivered the opinion of the court, in which JAMES CURWOOD WITT, JR., J., and NORMA MCGEE OGLE, J., joined.

Mack Garner, District Public Defender (at trial and on appeal); and Joseph Liddell Kirk (on appeal), for the appellant, Estes Kefauver Bowers.

Robert E. Cooper, Attorney General and Reporter; and Renee W. Turner, Assistant Attorney General, for the appellee, State of Tennessee.

**MEMORANDUM OPINION**

On January 9, 2008, the defendant pled guilty to one count of promotion of methamphetamine manufacture, a Class D felony, and one count of simple possession of methamphetamine, a Class A misdemeanor. Pursuant to the plea agreement, the trial court ordered the defendant to serve concurrent sentences of four years and eleven months and twenty-nine days on supervised probation. On April 3, 2008, a probation violation warrant issued alleging that the defendant violated two conditions of his probation by (1) testing positive for methamphetamine on March 26, 2008, and (2) failing to pay court costs and fines totaling \$4,170. On October 6, 2008, the trial court revoked the defendant's probation based upon the failure of the drug screen and ordered his sentences served in the custody of the Department of Correction. The defendant filed a timely notice of appeal.

The decision to revoke probation is in the sound discretion of the trial judge. State v. Kendrick, 178 S.W.3d 734, 738 (Tenn. Crim. App. 2005); State v. Mitchell, 810 S.W.2d 733, 735 (Tenn. Crim. App. 1991). The judgment of the trial court to revoke probation will be upheld on appeal unless there has been an abuse of discretion. State v. Harkins, 811 S.W.2d 79, 82 (Tenn. 1991). To find an abuse of discretion in a probation revocation case, the record must be void of any substantial evidence that would support the trial court's decision that a violation of the conditions of probation occurred. Id.; State v. Grear, 568 S.W.2d 285, 286 (Tenn. 1978); State v. Delp, 614 S.W.2d 395, 398 (Tenn. Crim. App. 1980). Proof of a probation violation is sufficient if it allows the trial court to make a conscientious and intelligent judgment. State v. Milton, 673 S.W.2d 555, 557 (Tenn. Crim. App. 1984). In reviewing the trial court's finding, it is our obligation to examine the record and determine whether the trial court has exercised a conscientious judgment rather than an arbitrary one. Mitchell, 810 S.W.2d at 735.

The testimony and exhibits presented at the probation revocation hearing support the trial court's finding that the defendant violated the conditions of his probation by failing a drug screen. The violation occurred within three months of the defendant's placement on supervised probation. Upon due consideration of the pleadings, the record, and the applicable law, the court concludes that the record supports the trial court's revocation of probation and imposition of a sentence in confinement. Accordingly, the state's motion is granted. The judgment of the trial court is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals.

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D. KELLY THOMAS, JR., JUDGE